

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON APPLICATION FOR APPROVAL
OF THE ALLSTON-WAVERLY PROJECT AND CONSENT TO THE
FORMATION OF WAVERLY APARTMENTS, INC.

A. The Hearing. A public hearing was held at 2:00 p.m. on June 3, 1964, at Faneuil Hall, Boston, Massachusetts, by the Boston Redevelopment Authority (hereinafter called "the Authority") on an Application (hereinafter called "the Application") filed by Maurice Simon, John C. Pappas and Louis Smith (hereinafter called "the Applicants") for authorization and approval of a project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 (hereinafter called "the Project") and for consent to the formation of Waverley Apartments, Inc., a corporation to be organized under the provisions of said Chapter 121A for the purpose of undertaking and carrying out the Project, due notice of said hearing having been given previously by publication on May 15 and 22, 1964, in the Boston Herald and the Boston Record-American, daily newspapers of general circulation published in Boston, and mailing postage prepaid in accordance with Rule 8 of the Rules and Regulations of the Authority for securing the approval of Chapter 121A projects and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960. Stephen E. McCloskey, Vice

Chairman of the Authority, James G. Colbert and Melvin J. Massucco, members of the Authority and Kane Simonian, Secretary of the Authority, were present throughout the hearing.

B. The Project. The Project consists of the construction, operation and maintenance by the 121A Corporation of 100 two- and three-bedroom units and appurtenant facilities on a tract of land bounded generally by the rear lot lines of parcels fronting on Waverley Street, Portsmouth Street, Lincoln Street, and South Waverley Street in the City of Boston, containing approximately 199,757 square feet described on a plan entitled "Revised Site Plan, Chapter 121A Project Area, Waverley Apartments, Inc." dated November 18, 1964, which plan is a modification of a plan entitled "Site Plan, Chapter 121A Project Area, Waverley Apartments, Inc." dated March 30, 1964, a copy of which was filed with the Application as Exhibit A. The premises on which the Project is to be located are hereinafter referred to as the "Project Area". The following structures and facilities are proposed to be constructed thereon:

1. Four (4) three-story apartment buildings containing a total of 78 two- and three-bedroom units, storage space and other appurtenances.
2. Twenty-two (22) two-story row houses, consisting of three-bedroom units with private patios.

3. On-site parking to accommodate 102 cars.
4. Outdoor tot-lot, landscaped courts and walks.
5. Fencing and screen planting on the Project Area periphery.

C. Authority Action. Before approving the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed with it or referred to in it, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing and the arguments and statements made at the hearing.

The Project as defined in the Application constitutes a "project" within the meaning of Section 1 of Chapter 121A of the General Laws since it provides for the construction, operation and maintenance in a blighted open area of decent, safe and sanitary residential structures and appurtenant facilities in the public interest.

D. The Project Area. The existing conditions warrant the finding that the Project Area is a "blighted open area" as defined under Section 1 of Chapter 121A of the Massachusetts General Laws, as amended. In particular, it is a predominantly open area which is detrimental to the safety, health, morals, welfare and sound growth of the community because it is unduly costly to develop it soundly through the ordinary operations

of private enterprise by reason of obsolete and inappropriate platting and subdivision, division of the area by rights of way, diversity of ownership of plots and because there has been a substantial change in business and economic conditions and practices, and an abandonment and cessation of a previous use. By reason of the existing conditions which are not being remedied by the ordinary operations of private enterprise, the area is of such a character that in essence it is detrimental to the safety, health, morals, welfare and sound growth of the community in which it is situated. The area contains only two structures. These are a contractor's office and a vacant one-story light industrial building which are inconsistent with and deleterious to the sound development of the area itself, as well as the surrounding residential neighborhood. Existing conditions will, unless remedied, encourage undesirable industrial expansion into a residential area and discourage the development and conservation of needed housing.

These conditions warrant the carrying out of the project in accordance with the legislative mandate contained in Chapter 121A of the Massachusetts General Laws as amended. The Project Area is well within the statutory limits of the "blighted open area" definition. The purpose of Chapter 121A and Chapter 658

of the Acts of 1960 will be met by this Project. It will involve the construction of a desirable group of new residential structures and will provide an additional supply of needed housing accommodations for families of modest means. It will encourage the conservation and improvement of the residential area and dwellings located adjacent to the Project Area. It will provide substantial financial return to the City of Boston in that the tax yield will increase from approximately \$3600 to an estimated \$22,500 per year. Exhibit E sets forth the amounts to be paid by agreement by the 121A Corporation to the City of Boston in addition to the excise prescribed by Section 10 of Chapter 121A.

E. Cost of the Project. The cost of the Project appears to have been correctly estimated in the Application. The Project is practicable. An allocation of Section 221(d)(3) funds for this Project has been made by the Federal Housing Administration.

All funds which will be required, in addition to those to be obtained from Federal Housing Administration insured mortgage financing, are either already available or it appears realistic to believe will become available to the applicants at the appropriate time. The Authority hereby approves any financing made pursuant to Paragraph 7 of the Application which is insured by the Federal Housing Administration.

F. Land Acquisition. The Project includes the acquisition of real estate within the Project Area and the applicants' request authorization and approval of the taking of such real estate by the 121A Corporation by eminent domain. If the 121A Corporation is formed and enters into the agreements with the Authority and with the City of Boston as provided in the Application, the Authority approves the taking by eminent domain of a fee interest in land within the Project Area by the 121A Corporation under Chapter seventy-nine of the General Laws, as amended, for the purpose of carrying out the approved Project subject, however, to the following conditions except as the same may from time to time be amended by vote or other written action of the Authority:

1. The 121A Corporation shall at its sole expense cause a title examination to be made of all of the lots situated within the Project Area by attorneys or title insurance companies, and shall deliver to the Authority title reports on each and every lot situated within said Project Area.
2. The Authority shall employ two or more expert appraisers to make an appraisal of the land described in the Application, and, based upon the

reports of such appraisers, shall determine for each parcel included within such land the amount of its fair value; and shall in writing notify the 121A Corporation of such determination.

3. Within ninety (90) days after approval of this Project by the Mayor, the 121A Corporation shall notify the Authority in writing, signed by an executive officer, that it has made diligent but unsuccessful efforts to acquire the parcels of land listed through negotiation and desires to acquire said land by eminent domain. Such notification shall include a legal description of the land involved, the name and address of the owners of record, and of each mortgagee or other party having interest in each parcel, and a statement by the executive officer of the 121A Corporation that it has offered to each such owner the price determined by the Authority to be the fair value of said parcel.
4. Within ten (10) days after the notification referred to in Paragraph 3, the 121A Corporation shall give to the Authority as provided in Section 40 of said

Chapter 79, security to its satisfaction for payment of all damages and costs which may be awarded for the land or other property taken or injured. Said security shall be in the form of cash, certified bank check drawn to the order of the Authority, United States Treasury bonds or other marketable securities acceptable to the Authority, and shall be in the aggregate amount of 140% of the fair value (as determined by the Authority) of the land proposed to be taken by eminent domain. In addition to the foregoing, the 121A Corporation shall also post a bond in a total sum equal to twenty (20%) percent of the fair value of the land, with corporate surety, acceptable to the Authority. The purpose of said bond, and its conditions shall so provide, shall be to insure the payment of any condemnation awards as a result of the taking, where the security described above has been depleted.

5. The Order of Taking shall include an award of damages for each parcel taken as determined by the Authority; and the 121A Corporation shall promptly give written notice of such taking and award to every person, including every mortgagee of record, and shall within sixty (60) days after the recording of the Order of Taking tender payment of the amount of damages awarded to the persons entitled thereto. Upon receipt of all necessary releases, payment of the awards, whether obtained by judicial

determination or otherwise, shall be made by the Authority and shall be paid out of the funds referred to in Subsection (4) above.

6. The 121A Corporation shall promptly comply in every respect with all of the laws relating to acquisition of property by eminent domain including but not limited to Chapter 79 of the Massachusetts General Laws and all amendments thereto, and such implementing instructions as may be issued by the Authority through its General Counsel.

7. In every case where a former owner files a petition for the assessment of damages in accordance with Chapter 79 of the General Laws, the 121A Corporation shall defend such suit in its own name and with its own counsel. Said 121A Corporation shall be solely responsible for all damages awarded by the court, including any interest on the award and all court costs. In defending all such petitions for the assessment of damages, the 121A Corporation shall utilize as expert witnesses only those appraisers engaged by the Authority to appraise the land described in the Application. The Authority shall be responsible for insuring that the appraisers are available for court appearance and shall compensate them for any required testimony in accordance with the terms of its contract with them.

G. Master Plan. The project does not conflict with the Master Plan of the City of Boston. It calls for a residential use of the Project Area in conformity with the General Plan.

H. Effect of Project. The Project will not be in any detrimental to the best interests of the public or the City or to the Public safety or convenience or be inconsistent with the most suitable development of the City. The Project will in fact forward the best interests of the City and will constitute a public use and benefit.

The brick apartment and row house units to be erected under the Project are attractive and efficiently designed buildings, in keeping with the general character of the neighborhood. The provision of landscaped open courts, walks and parking spaces around the periphery of the Project contribute to the general attractiveness of the site plan.

The Project does not involve the destruction or rehabilitation of buildings occupied in whole or in part as dwellings.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and management of the Project as set forth in Exhibit D filed with and attached to the Application

are hereby adopted and imposed as rules and regulations applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960.

The carrying out of the Project will not require the erection, maintenance, and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a church.

J. Deviations. Exhibit C as revised May 26, 1964, to the Application sets forth certain permissions requested for the Project to deviate from zoning, building, health and fire laws, codes, ordinances and regulations in effect in Boston, and the applicants have submitted an additional such request. For the reasons set forth in the Application and supporting documents, in the evidence presented at the hearings, and in this report, the Authority hereby finds that each and every one of the permissions hereinafter granted is reasonably necessary for the carrying out of the Project and may, subject to such, if any conditions as are hereinafter stated with respect thereto respectively, be granted without substantially derogating from the intent and purposes of the applicable laws,

codes, ordinances or regulations, respectively; and the Authority is also satisfied, by reliable and generally accepted tests, and by experience in other cities and on other FHA projects that the other designs, construction materials, apparatus, equipment or methods specified in the Application and supporting documents in the evidence presented at the hearings and in this report, will, subject to said conditions, sufficiently satisfy the purpose for which it or they are to be used and the purposes of such laws, codes, ordinances or regulations. The applicants have withdrawn their request to allow storage closets in stair enclosures, and accordingly such request is not granted.

1. Sideyards. (Boston Zoning Code R-40 and Boston Building Code Section 110a). For Building Type B Row Houses, as shown on the applicants' plans, which are to be located perpendicular to the street on which the building nominally fronts, the requirements for front yards and rear yards, which under the physical circumstances are actually side yards, are waived. Each unit of row houses consisting of two or more buildings separated by party walls shall be deemed to be a single building for the purpose of compliance with side yard requirements.

2. Grouping of Buildings in Application. Permission is granted to include more than one, but not more than five

buildings (3-story walk-up, Type A, Group H₂ occupancy), in one application. Permission is granted to include more than one, but not more than eight buildings (Town Houses, Type B, Group I occupancy), in one application.

3. Platform Framing. Section 1417 of the Boston Building Code). Permission to allow platform framing is granted.

4. First Story Concrete Block Walls. (Section 1406d of the Boston Building Code). Permission is granted to allow 8" solid concrete block or 8" solid concrete wall in the first story walls at the stair enclosure and walls between apartments.

5. Apartment Doors. (General Laws, Chapter 143, Section 15). Permission is granted in 3-story walk-up, Type A, Group H₂ occupancy, buildings as shown on the applicants' plans to permit apartment entrance doors to be 3 feet wide and open into the apartment, provided, however, that such doors are A Label fire doors and provided further that entrance doors to the building shall be 3 feet 6 inches wide and open out.

The applicants have also requested permission to deviate from Section 1001F of the Boston Building Code so as to permit six apartments in each of the 3-story Walk-up, Group H₂ occupancy buildings. Such permission is granted.

The applicants have requested permission to relocate or terminate certain storm, sewer and water lines within the Project

Area. Such matter is not considered to be within the jurisdiction of this Authority under this application, and accordingly no action is taken on the request at this time.

If the project is approved and the formation of the 121A Corporation is consented to, the applicants have agreed to form the 121A Corporation and to cause it to enter into agreements with the Authority (Exhibit B to the Application) and with the City of Boston (see paragraph 19B of the Application), if an insurance commitment under Section 221(d)(3) of the National Housing Act, as amended, in the sum of not less than \$1,650,000 is issued for the Project within a period of six months from approval of the Project by the Mayor or such extended period as may be designated by the Authority with the approval of the Mayor of the City of Boston; and if such insurance commitment is not issued within such period or extended period, the applicants propose to determine within such period or extended period whether or not to carry out the Project.

The Authority hereby finds that the Application and the Project conform to and comply with each and every applicable requirement of Chapter 121A of the General Laws, Chapter 652 of the Acts of 1960, and the applicable Rules and Regulations of the Authority, and the Authority, for these reasons and for

- 15 -

the reasons set forth in the Application and supporting documents, including Exhibit C, and the evidence presented at the hearing, and in this report, hereby approves the Project and consents to the formation of Waverley Apartments, Inc., as requested in the Application, and consents to the filing of the Agreement of Association for such corporation substantially in the forms annexed to said Application.

Chairman

Vice Chairman

Dated _____

November 19, 1964

MEMORANDUM

TO: Boston Redevelopment Authority

FROM: Edward J. Logue, Development Administrator

SUBJECT: Report and Decision of the 121A Application
Allston-Waverly Project

The Report and Decision of the Application for approval of the Allston-Waverly Project, and consent to the formation of Waverly Apartments, Inc. under Chapter 121A of the Massachusetts General Laws was tabled by the Authority on June 25, 1964.

Since that time, the applicants have conferred with the staff, and have agreed to post security equal to 160% of the total of our appraisers' estimates of the fair market value of the property within the Project Area.

The Report has been revised to condition the Authority's consent to the acquisition by eminent domain of land within the Project Area by requiring in Section F that the applicants deposit security sufficient to meet any condemnation awards, and proceed in such a manner that the interests of the Authority, the City, and the owners of land within the Project Area will be fully protected. Revisions have also been made by the general counsel to insure that all of the requirements of the recent amendments to the laws relating to eminent domain will be met.

Subsequent to the public hearing, several property owners in the Project Area requested that, if possible, all or portions of their land be deleted from the taking. The developers were requested to explore with their architects whether or not any lots could be excluded from the taking without affecting the number of units or parking spaces, or materially changing the development plan. The applicants advised on September 1 that the project boundaries could be revised to exclude $3\frac{1}{2}$ lots without adversely affecting the project design or integrity. A modified site plan slightly reducing the area of the project, but retaining the originally proposed 100 units has been reviewed and approved by our design review staff.

An allocation of 221(d)(3) funds for this project has been made by the F.H.A., and the applicants are eager to form the new corporation and to commence negotiations with property owners.

I recommend that the Authority adopt the attached Report and Decision as revised.

Attachment